

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 25, 2013

Item 34, Report No. 28, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on June 25, 2013.

34 FEDERAL MEDICAL MARIJUANA ACCESS REGULATION AMENDMENTS

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Commissioner Legal & Administrative Services/City Solicitor, dated June 11, 2013:

Recommendation

The Commissioner Legal & Administrative Services/City Solicitor, in consultation with the Commissioner of Planning, recommend:

1. That Council direct staff to review the regulatory tools and options available to deal with commercial producers of marijuana who physically situate in the municipality, and to report back to Council in September to seek further direction.

Contribution to Sustainability

Not applicable.

Economic Impact

Not applicable.

Communications Plan

Not applicable.

Purpose

The purpose of this Report is to advise Council of new amendments to the federal Medical Marijuana Access Regulations whereby commercial producers of marijuana will be licensed by the federal government as the sole producers of marijuana for medical use in Canada, and to seek Council direction to examine regulatory tools available to the City to minimize any negative impact from such operations physically located in the municipality.

Background - Analysis and Options

a) Previous Regime for Medical Marijuana—production in dwelling units permitted

The federal government regulates the possession and trafficking of marijuana pursuant to the *Controlled Drugs and Substances Act*. This Act prohibits the possession and trafficking of marijuana, but also permits the Minister of Health and the Governor-in-Council to issue exemptions for medical and scientific reasons, or for any other reason in the public interest. Pursuant to this authority, the Minister of Health passed the Marijuana Medical Access Regulations (MMAR) in 2001, which provided a regulatory framework to permit the possession and cultivation of marijuana for those with a demonstrated medical need. Under this process, qualified individuals were issued licenses to grow and use marijuana in their own dwelling unit, or buy marijuana from Health Canada for medical purposes.

Various stakeholders, including police and law enforcement, fire officials, and municipalities expressed concerns to the Minister of Health with respect to the MMAR, which included:

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 25, 2013

Item 34, CW Report No. 28 – Page 2

- The potential for diversion of marijuana to illegal uses
- The risk of home invasion due to the presence of marijuana
- Public safety risks, including electrical and fire hazards, stemming from the cultivation of marijuana in homes
- Public health risks due to the presence of excess mould and poor air quality associated with the cultivation of marijuana.

b) New Regime for Medical Marijuana—production by licensed commercial producers only

To address the above concerns, the federal government published amendments to the MMAR on December 15, 2012. These new regulations will phase out individual production of marijuana, and would only permit commercial producers to produce marijuana. Persons requiring medical marijuana would purchase their marijuana from the commercial producer. The commercial producer will be required to comply with regulations regarding product quality, personnel, record-keeping, safety and security, disposal and reporting. The federal government website indicates that these new regulations will come into force “Spring 2013”, however Health Canada was not able to provide a precise date when contacted by staff. However, the website provides that “applications to become a licensed producer will not be accepted until the regulations are promulgated. This is anticipated for Spring 2013.” The City has already received one notification from a corporation indicating their intention to commence commercial production of marijuana in an industrial area in Concord.

c) Potential Regulation by the City

The MMAR do not prescribe the locational requirements for these commercial producers. Rather, in a news release dated December 16, 2012, the Minister of Health stated that “production will no longer take place in homes and municipal zoning laws will need to be respected”. Accordingly, if existing zoning criteria is insufficient, there may be an opportunity for the City to further regulate. On a preliminary basis, such regulation could possibly include:

- Placing a cap on the number of commercial producers, similar to adult entertainment parlours
- Restricting the location of commercial producers to certain zones
- Limiting the size of the facility used by the commercial producer
- Requiring a minimum distance between commercial producers
- Requiring that any facility used for commercial production be a stand-alone building
- Requiring odor control measures to prevent nuisance to surrounding properties
- Placing restrictions on signage (no mention of the word “marijuana” for example)
- Requiring that the site be secured to prevent unauthorized entry
- Requiring a minimum distance from residential areas, schools, playgrounds, community centres, etc.
- Requiring a building permit for any new construction or conversion of an existing building to ensure safety measures are in place for such a use
- Requiring that the commercial producer receive a business license from the City, subject to fire and building inspection by City staff.

Given that this is a federal area of jurisdiction, special care should be taken to ensure that these, or any other measures, comply with the Constitution, the *Charter* and other enabling legislation such as the *Municipal Act, 2001* and the *Planning Act*. Consultation with the Planning, Fire, and Building Standards Departments will also be necessary to ensure adequacy of any regulations.

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 25, 2013

Item 34, CW Report No. 28 – Page 3

Therefore, staff are recommending that Council direct Staff to conduct a review of the regulatory tools available to the City for commercial producers of marijuana, and to report back to Council in September.

It is important to address these issues as soon as possible, as it will invariably be more difficult and costly to enforce any new measures once the commercial producer is in operation. With respect to zoning, any commercial producer in operation prior to any zoning amendment will have a legal non-conforming right to continue operating at the location.

d) Other municipalities

The cities of Coquitlam and Maple Ridge, British Columbia, have by-laws in place to regulate commercial producers of medical marijuana, where some of the above provisions have been incorporated. The City of Ottawa recently directed staff to examine the regulatory tools available for commercial producers of medical marijuana.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council.

Regional Implications

Not applicable

Conclusion

The federal government has recently amended the Medical Marijuana Access Regulations to phase out individual production of medical marijuana and license commercial producers of medical marijuana. The Minister of Health has stated that "municipal zoning by-laws will need to be respected". Staff are seeking direction from Council to examine the regulatory tools available to the City to minimize any negative impacts that such commercial producers will have in the community.

Attachments

None

Report prepared by:

Christopher G. Bendick
Legal Counsel

FEDERAL MEDICAL MARIJUANA ACCESS REGULATION AMENDMENTS

Recommendation

The Commissioner Legal & Administrative Services/City Solicitor, in consultation with the Commissioner of Planning, recommend:

1. That Council direct staff to review the regulatory tools and options available to deal with commercial producers of marijuana who physically situate in the municipality, and to report back to Council in September to seek further direction.

Contribution to Sustainability

Not applicable.

Economic Impact

Not applicable.

Communications Plan

Not applicable.

Purpose

The purpose of this Report is to advise Council of new amendments to the federal Medical Marijuana Access Regulations whereby commercial producers of marijuana will be licensed by the federal government as the sole producers of marijuana for medical use in Canada, and to seek Council direction to examine regulatory tools available to the City to minimize any negative impact from such operations physically located in the municipality.

Background - Analysis and Options

a) Previous Regime for Medical Marijuana—production in dwelling units permitted

The federal government regulates the possession and trafficking of marijuana pursuant to the *Controlled Drugs and Substances Act*. This Act prohibits the possession and trafficking of marijuana, but also permits the Minister of Health and the Governor-in-Council to issue exemptions for medical and scientific reasons, or for any other reason in the public interest. Pursuant to this authority, the Minister of Health passed the Marijuana Medical Access Regulations (MMAR) in 2001, which provided a regulatory framework to permit the possession and cultivation of marijuana for those with a demonstrated medical need. Under this process, qualified individuals were issued licenses to grow and use marijuana in their own dwelling unit, or buy marijuana from Health Canada for medical purposes.

Various stakeholders, including police and law enforcement, fire officials, and municipalities expressed concerns to the Minister of Health with respect to the MMAR, which included:

- The potential for diversion of marijuana to illegal uses
- The risk of home invasion due to the presence of marijuana

- Public safety risks, including electrical and fire hazards, stemming from the cultivation of marijuana in homes
- Public health risks due to the presence of excess mould and poor air quality associated with the cultivation of marijuana.

b) *New Regime for Medical Marijuana—production by licensed commercial producers only*

To address the above concerns, the federal government published amendments to the MMAR on December 15, 2012. These new regulations will phase out individual production of marijuana, and would only permit commercial producers to produce marijuana. Persons requiring medical marijuana would purchase their marijuana from the commercial producer. The commercial producer will be required to comply with regulations regarding product quality, personnel, record-keeping, safety and security, disposal and reporting. The federal government website indicates that these new regulations will come into force “Spring 2013”, however Health Canada was not able to provide a precise date when contacted by staff. However, the website provides that “applications to become a licensed producer will not be accepted until the regulations are promulgated. This is anticipated for Spring 2013.” The City has already received one notification from a corporation indicating their intention to commence commercial production of marijuana in an industrial area in Concord.

c) *Potential Regulation by the City*

The MMAR do not prescribe the locational requirements for these commercial producers. Rather, in a news release dated December 16, 2012, the Minister of Health stated that “production will no longer take place in homes and municipal zoning laws will need to be respected”. Accordingly, if existing zoning criteria is insufficient, there may be an opportunity for the City to further regulate. On a preliminary basis, such regulation could possibly include:

- Placing a cap on the number of commercial producers, similar to adult entertainment parlours
- Restricting the location of commercial producers to certain zones
- Limiting the size of the facility used by the commercial producer
- Requiring a minimum distance between commercial producers
- Requiring that any facility used for commercial production be a stand-alone building
- Requiring odor control measures to prevent nuisance to surrounding properties
- Placing restrictions on signage (no mention of the word “marijuana” for example)
- Requiring that the site be secured to prevent unauthorized entry
- Requiring a minimum distance from residential areas, schools, playgrounds, community centres, etc.
- Requiring a building permit for any new construction or conversion of an existing building to ensure safety measures are in place for such a use
- Requiring that the commercial producer receive a business license from the City, subject to fire and building inspection by City staff.

Given that this is a federal area of jurisdiction, special care should be taken to ensure that these, or any other measures, comply with the Constitution, the *Charter* and other enabling legislation such as the *Municipal Act, 2001* and the *Planning Act*. Consultation with the Planning, Fire, and Building Standards Departments will also be necessary to ensure adequacy of any regulations. Therefore, staff are recommending that Council direct Staff to conduct a review of the regulatory tools available to the City for commercial producers of marijuana, and to report back to Council in September.

It is important to address these issues as soon as possible, as it will invariably be more difficult and costly to enforce any new measures once the commercial producer is in operation. With respect to zoning, any commercial producer in operation prior to any zoning amendment will have a legal non-conforming right to continue operating at the location.

d) Other municipalities

The cities of Coquitlam and Maple Ridge, British Columbia, have by-laws in place to regulate commercial producers of medical marijuana, where some of the above provisions have been incorporated. The City of Ottawa recently directed staff to examine the regulatory tools available for commercial producers of medical marijuana.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council.

Regional Implications

Not applicable

Conclusion

The federal government has recently amended the Medical Marijuana Access Regulations to phase out individual production of medical marijuana and license commercial producers of medical marijuana. The Minister of Health has stated that “municipal zoning by-laws will need to be respected”. Staff are seeking direction from Council to examine the regulatory tools available to the City to minimize any negative impacts that such commercial producers will have in the community.

Attachments

None

Report prepared by:

Christopher G. Bendick
Legal Counsel

Respectfully submitted,

MaryLee Farrugia
Commissioner of Legal & Administrative Services & City Solicitor